APPENDIX

Excerpt From Record Containing Sample Derogatory Statements by Petitioners' Attorneys of Record (R. 13-14)

"In the course of the argument on the pending motions to dismiss the complaint, Mr. McManus responded as follows to a question from the Court as to suggested remedies for Mr. Strong's alleged misconduct other than dismissal (Tr. 34-35):

'I will have to confess that I myself am unable to explain or to justify Mr. Strong's conduct on any reasonable or rational basis. I have not talked to Mr. Strong since the 31st day of August of 1955. As everybody knows in this room, there has been a dispute between counsel of record and the plaintiffs in this case, especially Mr. Strong, but recently that situation has changed with respect to Mr. Imel, Mr. Mitzner and Mr. Naber, so that Mr. Mitzner and Mr. Imel and Mr. Naber have counselled with us this week as late as Tuesday, and apparently Mr. Strong is going down the same line that he has gone all along, by himself, but it has become increasingly apparent that the other directors are getting next to Mr. Strong, shall we put it.'

"He added the following (Tr. 35-36):

'The Special Master, Your Honor, as I understand the law, possesses no power to commit a person for contempt of court. That is only a power vested in the district judge, so that the only sanction that he could apply on the motion and the record that was made before him was to sustain or recommend the sustaining of the motion to dismiss filed by the defendants because of his refusal and failure to testify, and his failure and refusal to put up the $2,500.

'Now, in a discussion of this kind I must be fair and honest and frank with the Court, that I am of the opinion that at all times they had the

money to put up the $2,500, so that I don't know of any justification or excuse for the failure and refusal of First Iowa Hydro Electric Cooperative to make the $2,500 deposit into the registry of this court under the order that the Court has made, and I don't intend to attempt to justify that because the records of this court show that during the bankruptcy proceedings they produced in the neighborhood of $5,000. I am told, although I know it only by hearsay, that that $5,000 that was deposited has been released and is in the hands of the lawyers who represented the First Iowa Hydro Electric Cooperative in the bankruptcy proceedings.'

"Mr. McManus further stated:

'We have advised all of these plaintiffs to testify and have requested them to testify, so that if this case is dismissed it penalizes the lawyers who are innocent of any wrongdoing' (Tr. 37).

"During further discussions with the Court Mr. McManus stated that he would 'not attempt to explain or to justify or to excuse the conduct of Mr. Strong' (Tr. 38). Of Mr. Gillmor, he said (Tr. 38):

'Mr. Gillmor is a very old man who is under the domination of Mr. Strong and who is being led by Mr. Strong. If left to his own devices I am certain that Mr. Gillmor would do what was right. He is a high minded old gentleman possessed of his ideals, but he is being influenced and led by Mr. Strong, so that Mr. Strong by his wilfull conduct is penalizing the other four directors and the attorneys of record for the plaintiffs, so that I ask the Court to devise some means to keep the law suit in court in order to afford us time and opportunity to try to get the situation straightened out.'

"When the Court stated of Plaintiff Strong that 'He has been guilty of contumacious conduct as one could possibly be guilty of' (Tr. 39), Mr. McManus replied: 'I agree with Your Honor' (Ibid.)."